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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 090206140-91081-03 and 120405260-4258-02]

RIN 0648-XF673

Authorization of Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers in Texas and Portions of Louisiana

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; determination of catastrophic conditions.

SUMMARY: In accordance with the regulations implementing the individual fishing quota (IFQ) and Federal dealer reporting programs specific to the commercial reef fish and coastal migratory pelagic (CMP) fisheries in the Gulf of Mexico (Gulf), the Regional Administrator, Southeast Region, NMFS (RA) has determined that Hurricane Harvey has caused catastrophic conditions in coastal and adjacent counties in the state of Texas, and Cameron and Vermilion parishes in Louisiana. Consistent with those regulations, the RA has authorized any dealer in the affected area who does not have access to electronic reporting to delay reporting of trip tickets to NOAA

Fisheries from September 1, 2017, through October 15, 2017. The RA has also authorized IFQ participants within this affected area to use paper-based forms, if necessary, for basic required administrative functions, e.g., landing transactions, from September 1, 2017, through October 15, 2017. This temporary rule announcing the determination of catastrophic conditions and allowance of alternative methods for completing required IFQ and other dealer reporting administrative functions is intended to facilitate continuation of IFQ and dealer reporting operations during the period of catastrophic conditions. NMFS will continue to monitor and evaluate conditions. A subsequent *FEDERAL REGISTER* document will be published, if needed.

DATES: The RA is authorizing applicable Federal dealers reporting within this affected area to use revised reporting methods from September 1, 2017, through October 15, 2017.

FOR FURTHER INFORMATION CONTACT: IFQ Customer Service, telephone: 866-425-7627, fax: 727-824-5308, email: *SER-IFQ.Support@noaa.gov*. For federal dealer reporting, Fisheries Monitoring Branch, telephone: 305-361-4581.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico

Council. The fishery for CMP fish (king mackerel, Spanish mackerel, and cobia) is managed under the FMP for the CMP Resources of the Gulf of Mexico and South Atlantic. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490, April 9, 2014). Amendment 26 to the FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447, November 22, 2006). Amendment 29 to the FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732, August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) and the dealer reporting requirements (50 CFR 622.5(c)) require that Federal dealers and IFQ participants have access to a computer and Internet and that they conduct administrative functions associated with dealer reporting and the IFQ program, *e.g.*, landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and authorize IFQ participants to use

paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

Hurricane Harvey made landfall between Port Aransas and Port O'Connor, Texas, as a Category 4 hurricane on August 25, 2017. Strong winds and flooding from this hurricane impacted communities throughout coastal and eastern Texas and southwest Louisiana, resulting in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in all coastal and adjacent counties of Texas and in Cameron and Vermilion Parishes, Louisiana. Through this temporary rule, the RA is authorizing Federal dealers to delay reporting of trip tickets to NOAA Fisheries and IFQ participants within this affected area to use paper-based forms, from *[insert date of filing for public inspection with the Office of the FEDERAL REGISTER]*, through October 15, 2017. NMFS will provide additional notification to affected participants via NOAA weather radio, Fishery Bulletins, and other appropriate means. NOAA Fisheries will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions.

Dealers may delay electronic reporting of trip tickets to NOAA Fisheries during catastrophic conditions. Dealers are to report all landings to NOAA Fisheries as soon as possible. Assistance for Federal dealers in effected areas is available at the Fisheries Monitoring Branch, 1-305-361-4581. NMFS previously provided IFQ dealers with the necessary paper forms (sequentially coded) and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all participants, and participants in the affected area are encouraged to continue using these systems, if accessible.

The administrative program functions available to participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the Catch Share Support line, 1-866-425-7627 Monday through Friday, between 8 a.m. and 4:30 p.m. eastern time.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and

management of reef fish and CMP species managed under the Gulf IFQ Programs and the Federal dealer reporting programs, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.5(c), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the rules implementing the Gulf IFQ programs and Federal dealer reporting have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The rules also authorize the RA to provide timely notice to affected participants via publication of notification in the *Federal Register*, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist and that paper forms may be utilized in the affected area and that

Federal dealers may submit delayed reports. Additionally, delaying this temporary rule to provide prior notice and opportunity for public comment would be contrary to the public interest because affected participants are still fishing for and receiving these species in the affected area and need a means of completing their landing transactions. With the power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Harvey, numerous businesses are unable to complete landings transactions and dealer reports electronically. In order to continue with their businesses, they need to be aware they can still complete landing transactions and dealer reports using the paper forms.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 1, 2017.

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Director, Office of Sustainable Fisheries,

National Marine Fisheries Service

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